

U. S. TREASURY DEPARTMENT
Internal Revenue Service
Washington 25, D. C.

Alcohol and Tobacco Tax Division
Industry Circular No. 57-2

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Transfer of Packages of Distilled Spirits in Bond

b.f. Capo.

Proprietors of internal revenue bonded warehouses; and others concerned:

BACKGROUND.

¹ Prior to March 27, 1956, effective date of Treasury Decision 6165, storekeeper-gaugers weighed and examined packages of distilled spirits to be transferred in bond between internal revenue bonded warehouses. The storekeeper-gauger determined that such packages were correctly recorded on Forms 236 and 1619, and that the packages were actually loaded on the proper conveyance; he also certified on Form 236 to the removal of the spirits from the consignor premises. The packages were similarly examined by a storekeeper-gauger on receipt at an internal revenue bonded warehouse, weighed (unless in a sealed conveyance or from a warehouse in the immediate vicinity), and a certificate of receipt executed. Care was exercised to insure complete accuracy and compliance with provisions of the law and regulations.

2. In order to permit greater flexibility in transfer operations and to afford warehousemen an opportunity to conduct their activities with as little delay as possible, while at the same time permitting Government supervision to be exercised efficiently and economically, certain duties and responsibilities were transferred from the storekeeper-gauger to the warehouseman. Such changes were effected by Treasury Decision 6165. Briefly, the changes discontinued the weighing of packages prior to shipment in conveyances sealed with Government cap seals, transferred to the warehouseman responsibility for weighing and recording the weights of packages transferred in unsealed conveyances, both prior to shipment and on receipt, and transferred to warehousemen the responsibility of certifying on Form 236 to such removals and receipts.

3. Generally the changes have proven beneficial. However, warehousemen have not, in all cases, fully complied with the law and regulations in effecting transfers of packages of spirits. As a result certain undesirable practices have developed which cannot be tolerated. Some of the conditions which have come to light

recently are: shipments did not contain the specific packages covered by the transfer papers (other packages were substituted); the number of packages listed on the transfer papers did not correspond with the actual count of packages transferred; and, in at least one instance, the transfer papers forwarded with a lot of spirits covered a completely different lot. Such conditions indicate that the warehousemen concerned may not have developed and exercised adequate control procedures and consequently have not properly discharged their responsibilities.

4. This circular is intended to point out that the transfer of packages in bond is a major obligation and responsibility of the warehouseman and demands the personal attention of management. It is imperative that packages be transferred in accordance with the provision of law and regulations and that each such transfer be covered by a complete and accurate set of transfer papers. Section 5232(a), Internal Revenue Code, provides that the warehouseman's bond shall be conditioned on compliance with all provisions of law and regulations relating to the business of warehousing distilled spirits. Section 5246, Internal Revenue Code, states that distilled spirits may be transferred in bond between internal revenue bonded warehouses in original packages or in such other packages or containers and under such regulations as the Secretary or his delegate may by regulations prescribe. Section 5631, Internal Revenue Code, provides, that if any distilled spirits deposited in any internal revenue bonded warehouse shall be taken therefrom without full compliance with the law and regulations and with the terms of any bond given on such removal, or if any distilled spirits which have been deposited in an internal revenue bonded warehouse shall be found elsewhere, not having been removed therefrom according to law, that any person who shall be guilty of such failure, or any person who shall in any manner violate any provision of the chapter relating to internal revenue bonded warehouses, shall be subject, on conviction, to a fine of not more than \$5,000 or to

imprisonment for not more than 3 years for each such failure or violation; and the spirits as to which such failure or violation or unlawful removal shall take place shall be forfeited to the United States. Further, section 7302, Internal Revenue Code, provides, in part, that it shall be unlawful to have or possess any property intended for use in violating the provisions of the internal revenue laws, or regulations prescribed under such laws, or which have been so used, and no property rights shall exist in any such property.

5. The Internal Revenue Service must take action under the above provisions of law when warehousemen transfer packages between warehouses in a manner contrary to that prescribed. Any package not covered by complete and accurate

transfer papers at the time of transfer will be considered to have been removed and deposited contrary to law and regulations, and will be subject to the penalties cited. The importance of this matter is stressed in order to enlist your full cooperation in insuring that the advantages which have accrued to you may not be impaired. It is again emphasized that the provisions of Treasury Decision 6165 significantly increased the degree of care which is required to be exercised by warehousemen to insure that packages are properly transferred.

6. Inquiries regarding this circular should refer to its number and be addressed to the office of your assistant regional commissioner (alcohol and tobacco tax).

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